

Automotive Alert!

June 29, 2001

Industry Issue Resolution Pilot Program - Includes Demo Issue Have You Raised This Issue? - Your Experiences Needed

Introduction

The proper treatment of demonstrator vehicles has long been an area of concern to the automobile dealership industry and an area of potentially significant non-compliance and inconsistent treatment. The new Industry Issue Resolution Pilot Program provides an opportunity to formulate guidance and possible resolution on the issue. *We need your assistance in gathering all pertinent facts and to identify issues for resolution.*

Industry Issue Resolution

In Notice 2000-65 the IRS announced a new issue management initiative, the Industry Issue Resolution Pilot Program (IIR). The IIR program was designed as a vehicle to resolve frequently disputed tax issues that are common to a significant number of LMSB taxpayers. Industry groups and trade associations received the initiative with enthusiasm and 24 applications were received by the closing date of February 28, 2001. All applications were carefully reviewed and on April 26, 2001 7 issues were selected for inclusion in the pilot program.

The Motor Vehicle Technical Advisor Program is especially pleased to have the proper treatment of demonstrator vehicles provided to dealership employees included in the program. (Additional information on other issues selected for the program can be found on the LMSB website under the Comprehensive Is-

sue Management Strategy section.) The demo issue was submitted by the National Auto Dealers Association (NADA), Crowe Chizek for Auto Team America, and O'Conner and Drew, CPA. The IIR program is a function of the LMSB division. However, any guidance resulting from the program will be available to an entire industry regardless of IRS classification.

The IIR process is a collaboration between LMSB, Appeals, Counsel and Treasury with the demo IIR team headed by Joe Brimacombe, Heavy Manufacturing and Transportation (HMT) Director of Field Operations. In addition, the team includes the Motor Vehicle Technical Advisor and Appeals ISP, representatives from LMSB Examination, Industry Counsel, Chief Counsel, Treasury, and the SB/SE division.

The IIR Pilot has an aggressive timeline with a completion target date of November 30, 2001 and each IIR team will determine what guidance vehicle is appropriate for its issue. Although the demo team is still in the fact-finding portion of the program, it is likely that guidance will be in the form of a revenue procedure.

Brief Discussion of the Issue

IRC §61, §132, §274, and the accompanying regulations primarily govern treatment of demonstrator vehicles. Technical Advice

Memorandum 9801002 provides additional guidance based on a specific set of facts.

Auto dealerships typically provide demonstration vehicles to dealership employees including sales persons and non-sales persons. IRC 132(j) provides that demonstration auto use qualifies as a working condition fringe benefit when the taxpayer meets certain requirements. Qualified demonstration use requires that the vehicle be provided to facilitate the salesperson's job performance and that there are substantial restrictions on personal use. The restrictions on personal use include a prohibition on personal vacations, use by other than the sales person, and a limitation on total mileage.

To qualify as a working condition fringe benefit, demonstrator vehicle policies must also meet the substantiation requirements of IRC §274. Treasury Regulation 1.274-5T (temporary) contains the general substantiation rules and Treasury Regulation 1.274-6T (temporary) contains safe harbor rules.

Summary

The demo IIR process began with a meeting with representatives of the organizations that submitted the IIR request. Subsequent activity will include framing the issue, evaluating resolution options and determining a suggested solution. Industry representatives will be included in the process but will not direct the resolution. According to the industry rep-

resentatives, dealerships need guidance, clarification, and most importantly simplification of the qualified demonstrator rules. They specifically cite the mileage limitations found in § 132 and the substantiation rules of §274.

The demo team is currently in the information-gathering phase of the program. In order for the devise an appropriate resolution, we need all the facts, and ***we need your help!*** If you have experience with the demonstrator issue especially current activity on this issue, the team would like to hear from you.

The MVTA will be gathering and consolidating responses for the demo team. To share your experiences or to discuss the issue further, please contact Terri Harris at 616-235-1655 or send an e-mail to: Terri.S.Harris@irs.gov. Due to the short IIR time frame, ***the demo team needs all responses no later than July 20, 2001.*** Please include your e-mail address and telephone number in your response so that we can follow up if additional information is needed.

If you know of individuals who have raised the demonstrator issue that are not on the MVTA mailing list, please forward this Automotive Alert to them. Thank you for your assistance in this important issue management pilot program.

